

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT PETITION NO.3132 OF 2017**

**ORDER :**

The case of the petitioner is that he is the owner of the agricultural land admeasuring Ac.8.28 cents in Sy.No.315 of Dorasanipadu Village, Dwaraka Tirumala Mandal, West Godavari District having purchased the same through registered sale deed bearing Doc.Nos.4170/1981 and 4136/1981 dated 23.11.1981. While so, the District Collector, West Godavari issued Draft notification under Section 4(1) of the Land Acquisition Act, 1894 vide proceedings No.G2/5211/2004 dated 16.02.2005 for acquisition of the land to an extent of Ac.103.82 cents i.e., Ac.0.65 cents in Sy.No.297/3, Ac.3.70 cents in Sy.No.298/1, Ac.22.35 cents in Sy.No.310, Ac.9.35 cents in Sy.No.311, Ac.2.35 cents in Sy.No.313/1, Ac.20.70 cents in Sy.No.313/2, Ac.11.74 cents in Sy.No.314/2, Ac.10.28 cents in Sy.No.315 and Ac.22.70 cents in Sy.No.324 of Dorasanipadu Village, Dwaraka Tirumala Mandal, West Godavari District for the purpose of development of Sri Venkateswara Swamy vari Devasthanam, Dwaraka Tirumala Village and Mandal and the said notification was published in A.P.Gazette No.7 dated 16.02.2017. The declaration under Section 6 of the Land Acquisition Act, 1894 (for short 'the Act') was approved by the Government vide Memo No.30006/Endt.IV(2)/2004-4 Revenue (Endts-IV) Department dated 02.02.2005 and the same was published in A.P.Gazette No.10, dated 24.02.2005. Since the petitioner's name was not published either in draft notification or in the declaration under

Section 6 of the Act, he was unaware of the land acquisition proceedings. Only after passing of the Award on 09.04.2005, he came to know about the land acquisition proceedings and questioning the same petitioner filed W.P.No.4704/2009. The said writ petition was dismissed by order 03.06.2010. Though the Award is passed on 09.04.2005, neither the respondents have taken possession of the land nor paid compensation to the petitioner. Aggrieved by the Award dated 09.04.2005, the present writ petition is filed.

Counter affidavit is filed by the 3<sup>rd</sup> respondent admitting the issuance of land acquisition proceedings in respect of the subject land. The subject land was taken possession and handed over to Sri Venkateswara Swamy vari Devasthanam long back in the year 2005 and changes were also incorporated in revenue records in the name of the said Devasthanam. It is also stated that though the contents of the notification under section 4(1) and 6 were published in two newspapers, petitioner has not filed any objections nor attended the Award enquiry. Since the Right to Fair Compensation & Transparency in Land Acquisition Resettlement & Rehabilitation Act came into effect from 01.04.2014, the same is not applicable to the present case. It is further stated that earlier when petitioner filed W.P.No.4704 of 2009, the same was dismissed vide order dated 03.06.2010. Though petitioner was informed about passing of the Award, no efforts are made by him to claim the said amount, as such the compensation amount was kept in Revenue deposits and finally sought for dismissal of the writ petition.

Learned counsel for the petitioner submits that as per Section 24(2) of Right to Fair Compensation & Transparency in Land Acquisition Resettlement & Rehabilitation Act, 2013, the Award has to be quashed as the amount is not paid to the petitioner. He also submits that against the same Award, some of the affected parties filed W.P.No.8547 of 2016 and this Court allowed the said writ petition.

Learned Assistant Government Pleader for Land Acquisition submits that possession of the subject land was taken long back in the year 2005 and petitioner has not made the temple as party and therefore the writ petition has to be dismissed.

It is to be seen that when some of the affected parties filed writ petition No.8547 of 2016 against the impugned Award raising the same contentions, the respondents herein also raised same objections in the said writ petition and this Court after considering the same and placing reliance on several judgments quashed the impugned Award to the extent of the petitioner therein.

In view of the above facts and circumstances, for the reasons alike in W.P.No.8547/2016 writ petition is allowed and the impugned award is set aside as null and void and the respondents are directed to initiate land acquisition proceedings under right to Fair compensation and Transparency in Land Acquisition Resettlement & Rehabilitation Act, 30 of 2017 afresh within eight weeks from the date of receipt of copy of this order. The respondents shall pay an amount of Rs.5,000/- towards costs to the petitioner within a period of four (04) weeks from today.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

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**A.RAJASHEKER REDDY, J**

20.04.2017  
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